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| 09/548,235      | 04/12/2000  | Thomas Mark Levergood | 432383-600011       | 6069             |

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PATENT GROUP 2N  
JONES DAY  
NORTH POINT  
901 LAKESIDE AVENUE  
CLEVELAND, OH 44114

EXAMINER

WINDER, PATRICE L

ART UNIT

PAPER NUMBER

2452

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DELIVERY MODE

10/28/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/548,235 | <b>Applicant(s)</b><br>LEVERGOOD ET AL. |  |
|                              | <b>Examiner</b><br>Patrice L. Winder | <b>Art Unit</b><br>2452                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 August 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 13-22, 35-39, 64 and 67-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 13-22, 35-39, 64 and 67-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5-21-2010</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 13-14, 17-22, 35-39, 64, 67-80 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant's specification does not provide details as to how one of ordinary skill would implement the computer-implemented aspects of Applicant's invention (i.e. no computer code or programming comments are provided) to "determine the number of hits, hyperlinks, sales" and "charge for advertising" based on the number of hits, hyperlinks and sales. In fact the specification lacks, any details of Applicant's implementation.

Applicant argues due to the amendments that the enablement rejection should be withdrawn.

Examiner's rebuttal – The amendments do not remedy the enablement rejection. The enablement rejection relates from applicant's written description not including a

Art Unit: 2452

description of the mechanism, system or method of transforming data collected, i.e. hits, sales, etc., to the amount determined to charge for advertising. The limitation is in each claim presented and thus each claim is rejected.

### ***Response to Arguments***

The affidavit filed on February 26, 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Ferguson et al., USPN 5,819,092 reference.

1) The affidavit must show possession of the claimed invention, mapping to the limitations recited in the present pending claims. As the claims are amended the evidence provided would need to reflect those amendments.

2) The affidavit must make reference to whether the reasons are conception, or reduction to practice, and provide evidence of diligence as appropriate.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 13-14, 17-22, 35-39, 64, 67-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferguson et al., USPN 5,819,092 (hereafter referred to as Ferguson).

Regarding claims 1, 64, Ferguson taught a computer-implemented method (system) of charging for advertising on the Web (column 18, lines 30-39), comprising:

producing an access history profile by filtering one or more transaction logs from one or more server to select transactions ;

determining link traversals from an advertising page to a product page (column 28, lines 58-59, 64-65) by evaluating the access history profile (column 37, lines 44-52); and

determining accesses to product page resulting from the link traversals to the product page; and (column 31, lines 22-25);

charging for a merchant for advertising based said determined accesses to the product page (column 31, lines 8-12); a particular link traversal to the product page, or on the number of sales resulting from a path advertising page (column 22, lines 25-38; column 31, lines 8-12). Ferguson taught a user identifier associated with transactions (column 35, lines 46-55). Ferguson does not specifically teach the user identifier is a session identifier, the user identifier is functionally equivalent to a session identifier. It would have been obvious to one of ordinary skill in the art at the time the invention was made that renaming the user identifier to a session identifier would have been an equivalent substitution.

Regarding dependent claim 13, Ferguson taught recording the link traversals in a transaction log (column 37, line 61-65).

Regarding dependent claim 14, Ferguson taught the one or more transaction logs are stored on a server (column 37, lines 53-60).

Regarding dependent claim 17, Ferguson taught monitoring the frequency and duration of access to the page (column 36, lines 63-67; column 37, lines 23-27).

Regarding dependent claim 18, Ferguson taught recording the frequency and duration of access to the page in a transaction log stored on a server (column 37, lines 61-67).

Regarding dependent claim 19, Ferguson taught counting accesses to the page exclusive of repeated requests from a common client (column 37, lines 66-67).

Regarding dependent claim 20, Ferguson taught wherein the counting is performed by the server (column 37, lines 53-60).

Regarding dependent claim 21, Ferguson taught counting the frequency of accesses to the page (column 37, lines 65-67); measuring the time intervals between repeated accesses from a common client (column 37, lines 16-22, 67); and excluding the counting of those accesses that fall within a defined period of time (column 38, lines 3-4).

Regarding dependent claim 22, Ferguson taught the counting is performed by the server (column 37, lines 53-60).

Regarding dependent claim 35, Ferguson taught recording the frequency and duration of access to the page by keeping a history of each client access to the page in a transaction log (column 36, lines 63-67; column 37, lines 23-27);

producing an access history from the transaction log (column 37, lines 44-52);

wherein the access history is produced from filtering transaction logs from one or more servers to select only transaction involving a particular user ID (column 35, lines 49-52; column 36, lines 63-67);

providing marketing feedback based on the access history (column 34, lines 10-16; column 37, lines 6-14).

Regarding dependent claim 36, Ferguson taught the marketing feedback is selected from the group consisting of: user demand, access pattern, and relationships between customer demographics and accessed pages and access patterns (column 37, lines 6-14).

Regarding dependent claim 37, Ferguson taught evaluating the transaction log to identify the most popular links to the page (column 38, lines 1-4).

Regarding dependent claim 38, Ferguson taught inserting a new link to provide more direct access to the page (column 18, lines 40-49; column 38, lines 5-10).

Regarding dependent claim 39, Ferguson taught the new link is inserted in a location based upon information contained in the transaction log (column 38, lines 5-10).

Regarding claims 67, Ferguson taught a computer-implemented method of charging for advertising on the Web (column 18, lines 30-39), comprising:

determining link traversals from an advertising page to a product page (column 28, lines 58-59, 64-65) by evaluating the access history profile (column 37, lines 44-52); and

determining accesses to product page resulting from the link traversals to the product page; and (column 31, lines 22-25);

charging for a merchant for advertising based said determined accesses to the product page (column 31, lines 8-12); a particular link traversal to the product page, or on the number of sales resulting from a path advertising page (column 22, lines 25-38; column 31, lines 8-12). Ferguson taught a user identifier associated with transactions and exchanged between a client and server (column 35, lines 46-55). Ferguson does not specifically teach the user identifier is a session identifier, the user identifier is functionally equivalent to a session identifier. It would have been obvious to one of ordinary skill in the art at the time the invention was made that renaming the user identifier to a session identifier would have been an equivalent substitution.

Regarding dependent claim 68, Ferguson taught recording the link traversals in a one or more transaction logs (column 37, line 61-65).

Regarding dependent claim 69, Ferguson taught the one or more transaction logs are stored on a server (column 37, lines 53-60).

Regarding dependent claim 70, Ferguson taught monitoring the frequency and duration of access to the product page (column 36, lines 63-67; column 37, lines 23-27).



Regarding dependent claim 71, Ferguson taught recording the frequency and duration of access to the product page in a transaction log stored on a server (column 37, lines 61-67).

Regarding dependent claim 72, Ferguson taught counting accesses to the product page exclusive of repeated requests from a common client (column 37, lines 66-67).

Regarding dependent claim 73, Ferguson taught wherein the counting is performed by the server (column 37, lines 53-60).

Regarding dependent claim 74, Ferguson taught counting the frequency of accesses to the page (column 37, lines 65-67);

measuring the time intervals between repeated accesses from a common client (column 37, lines 16-22, 67); and

excluding the counting of those accesses that fall within a defined period of time (column 38, lines 3-4).

Regarding dependent claim 75, Ferguson taught wherein the counting is performed by the server (column 37, lines 53-60).

Regarding dependent claim 76, Ferguson taught recording the frequency and duration of access to the page by keeping a history of each client access to the page in a transaction log (column 36, lines 63-67; column 37, lines 23-27);

producing an access history from the transaction log (column 37, lines 44-52);

wherein the access history is produced from filtering transaction logs from one or more servers to select only transaction involving a particular user ID (column 35, lines 49-52; column 36, lines 63-67);

providing marketing feedback based on the access history (column 34, lines 10-16; column 37, lines 6-14).

Regarding dependent claim 77, Ferguson taught the marketing feedback is selected from the group consisting of: user demand, access pattern, and relationships between customer demographics and accessed pages and access patterns (column 37, lines 6-14).

Regarding dependent claim 78, Ferguson taught evaluating the transaction log to identify the most popular links to the product page (column 38, lines 1-4).

Regarding dependent claim 79, Ferguson taught inserting a new link to provide more direct access to the page (column 18, lines 40-49; column 38, lines 5-10).

Regarding dependent claim 80, Ferguson taught the new link is inserted in a location upon information contained in the transaction log (column 38, lines 5-10).

Regarding claim 67, Ferguson taught a computer-implemented method (system) of charging for advertising on the Web (column 18, lines 30-39), comprising:

determining link traversals from an advertising page to a product page (column 28, lines 58-59, 64-65) by evaluating the access history profile (column 37, lines 44-52);  
and

determining accesses to product page resulting from the link traversals to the product page; and (column 31, lines 22-25);

charging for a merchant for advertising based said determined accesses to the product page (column 31, lines 8-12); a particular link traversal to the product page, or on the number of sales resulting from a path advertising page (column 22, lines 25-38; column 31, lines 8-12).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice L. Winder whose telephone number is (571)272-3935. The examiner can normally be reached on Monday-Friday, 12:00 pm - 8:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu V. Nguyen can be reached on 571-272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2452

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrice L Winder/  
Primary Examiner, Art Unit 2452

October 25, 2010